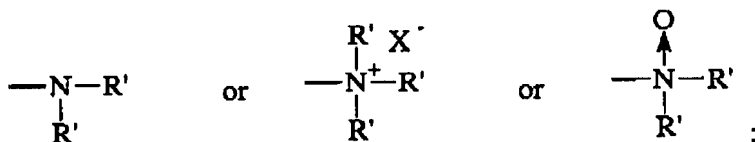


C 2

(cont'd.)



wherein backbone linking R units are selected from the group consisting of C<sub>2</sub>-C<sub>12</sub> alkylene, C<sub>4</sub>-C<sub>12</sub> alkenylene, C<sub>3</sub>-C<sub>12</sub> hydroxyalkylene, C<sub>4</sub>-C<sub>12</sub> dihydroxy-alkylene, C<sub>8</sub>-C<sub>12</sub> dialkylarylene, -(R<sup>1</sup>O)<sub>x</sub>R<sup>1</sup>-, -(R<sup>1</sup>O)<sub>x</sub>R<sup>5</sup>(OR<sup>1</sup>)<sub>x</sub>-, -(CH<sub>2</sub>CH(OR<sup>2</sup>)CH<sub>2</sub>O)<sub>z</sub>(R<sup>1</sup>O)<sub>y</sub>R<sup>1</sup>(OCH<sub>2</sub>CH(OR<sup>2</sup>)CH<sub>2</sub>)<sub>w</sub>-, -C(O)(R<sup>4</sup>)<sub>r</sub>C(O)-, -CH<sub>2</sub>CH(OR<sup>2</sup>)CH<sub>2</sub>-, and mixtures thereof; wherein R<sup>1</sup> is selected from the group consisting of C<sub>2</sub>-C<sub>6</sub> alkylene and mixtures thereof; R<sup>2</sup> is selected from the group consisting of hydrogen, -(R<sup>1</sup>O)<sub>x</sub>B, and mixtures thereof; R<sup>4</sup> is selected from the group consisting of C<sub>1</sub>-C<sub>12</sub> alkylene, C<sub>4</sub>-C<sub>12</sub> alkenylene, C<sub>8</sub>-C<sub>12</sub> arylalkylene, C<sub>6</sub>-C<sub>10</sub> arylene, and mixtures thereof; R<sup>5</sup> is selected from the group consisting of C<sub>1</sub>-C<sub>12</sub> alkylene, C<sub>3</sub>-C<sub>12</sub> hydroxyalkylene, C<sub>4</sub>-C<sub>12</sub> dihydroxy-alkylene, C<sub>8</sub>-C<sub>12</sub> dialkylarylene, -C(O)-, -C(O)NHR<sup>6</sup>NHC(O)-, -R<sup>1</sup>(OR<sup>1</sup>)-, -C(O)(R<sup>4</sup>)<sub>r</sub>C(O)-, -CH<sub>2</sub>CH(OH)CH<sub>2</sub>-, -CH<sub>2</sub>CH(OH)CH<sub>2</sub>O(R<sup>1</sup>O)<sub>y</sub>R<sup>1</sup>OCH<sub>2</sub>CH(OH)CH<sub>2</sub>-, and mixtures thereof; R<sup>6</sup> is selected from the group consisting of C<sub>2</sub>-C<sub>12</sub> alkylene or C<sub>6</sub>-C<sub>12</sub> arylene; R' units are selected from the group consisting of hydrogen, C<sub>1</sub>-C<sub>22</sub> alkyl, C<sub>3</sub>-C<sub>22</sub> alkenyl, C<sub>7</sub>-C<sub>22</sub> arylalkyl, C<sub>2</sub>-C<sub>22</sub> hydroxyalkyl, -(CH<sub>2</sub>)<sub>p</sub>CO<sub>2</sub>M, -(CH<sub>2</sub>)<sub>q</sub>SO<sub>3</sub>M, -CH(CH<sub>2</sub>CO<sub>2</sub>M)CO<sub>2</sub>M, -(CH<sub>2</sub>)<sub>p</sub>PO<sub>3</sub>M, -(R<sup>1</sup>O)<sub>x</sub>B, -C(O)R<sup>3</sup>, and mixtures thereof; B is selected from the group consisting of hydrogen, C<sub>1</sub>-C<sub>6</sub> alkyl, -(CH<sub>2</sub>)<sub>q</sub>SO<sub>3</sub>M, -(CH<sub>2</sub>)<sub>p</sub>CO<sub>2</sub>M, -(CH<sub>2</sub>)<sub>q</sub>(CHSO<sub>3</sub>M)CH<sub>2</sub>SO<sub>3</sub>M, -(CH<sub>2</sub>)<sub>q</sub>(CHSO<sub>2</sub>M)CH<sub>2</sub>SO<sub>3</sub>M, -(CH<sub>2</sub>)<sub>p</sub>PO<sub>3</sub>M, -PO<sub>3</sub>M, and mixtures thereof; R<sup>3</sup> is selected from the group consisting of C<sub>1</sub>-C<sub>18</sub> alkyl, C<sub>7</sub>-C<sub>12</sub> arylalkyl, C<sub>7</sub>-C<sub>12</sub> alkyl substituted aryl, C<sub>6</sub>-C<sub>12</sub> aryl, and mixtures thereof; M is hydrogen or a water soluble cation in sufficient amount to satisfy charge balance; X is a water soluble anion; m has the value from 2 to 700; n has the value from 0 to 350; p has the value from 1 to 6, q has the value from 0 to 6; r has the value of 0 or 1; w has the value 0 or 1; x has the value from 1 to 100; y has the value from 0 to 100; z has the value 0 or 1.

### REMARKS

Claims 1, 4-6, 8, 9, 12-14 are pending in the application for the Examiner's review and consideration. Claim 1 was amended to incorporate the disclosure from deleted claim 3. Claim 13 was added to include the disclosure from deleted claim 14. Claim 2 was deleted to further clarify the invention. No new matter has been added.

**CLAIM REJECTIONS UNDER 35 U.S.C. §112**

Claim 7 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants respectfully obviate the rejection.

On pages 2-3 of the Office Action, the Examiner alleges that there is insufficient antecedent basis for the limitation "polymer" in claim 7. Applicants have deleted claim 7 and added new claim 14 containing the disclosure of claim 7. Further, claim 14 depends from claim 13, which discloses a polyamino-functional polymer. Applicants respectfully request that the rejection made under 35 U.S.C. §112 be reconsidered and withdrawn.

**CLAIM REJECTIONS UNDER 35 U.S.C. §102**

Claims 1, 2, 4-6, 9, and 12 are rejected under 35 U.S.C. §102(a) as being allegedly anticipated by WO 98/17758 ("758"). Applicants respectfully traverse and obviate the rejection.

The '758 reference discloses a detergent composition containing a cationic dye-fixing agent and one or more cationic surfactants of the formula:  $R^1R^2R^3R^4N^+X^-$  in which  $R^1$  is a hydroxyalkyl group having no greater than 6 carbon atoms; each of  $R^2$  and  $R^3$  is independently selected from  $C_{1-4}$  alkyl or alkenyl;  $R^4$  is a  $C_{5-11}$  alkyl or alkenyl; and  $X^-$  is a counterion. *See, e.g.*, '758, page 1-2, Summary of the Invention. A preferred suds suppressing system comprises, among other ingredients, a dispersant, most preferably comprising a silicone glycol rake copolymer with a polyoxyalkylene content of 72-78%. *See, e.g.*, '758, page 31, Paragraph (b).

On pages 5-6 of the Office Action, it is alleged that the present invention is anticipated by the '758 reference. As the Examiner is no doubt aware, to anticipate a claim, each and every element of the claim must be disclosed in a single prior art reference. The '758 reference does not disclose each and every limitation of the present invention. Specifically, the '758 reference does not disclose a scum reducing agent selected from the group consisting of N,N dimethyl-N-(2-hydroxyethyl)-N-dodecyl/tetradecyl ammonium bromide, myristoyl choline ester quaternary methylammonium halides, lauroyl choline ester methylammonium halides, cocoyl choline ester quaternary methylammonium halides, a polyoxyalkylene alkyl amine surface active agent, and mixtures thereof.

Claim 1, as amended, discloses a scum reducing agent selected from the group consisting of N,N dimethyl-N-(2-hydroxyethyl)-N-dodecyl/tetradecyl ammonium bromide, myristoyl choline ester quaternary methylammonium halides, lauroyl choline ester methylammonium halides, cocoyl choline ester quaternary methylammonium halides, a polyoxyalkylene alkyl amine surface active agent, and mixtures thereof. This group of scum reducing agents is not disclosed by the '758 reference. These scum reducing agents were

incorporated into claim 1 from deleted claim 3, and thus do not constitute new matter. Further, the disclosure of deleted claim 3 was not rejected in the Office Action under §102.

Because each and every element of the claim has not been disclosed in a single prior art reference, Applicants respectfully request that the rejection made under 35 U.S.C. § 102(a) be reconsidered and withdrawn.

#### **CLAIM REJECTIONS UNDER 35 U.S.C. §103**

Claims 1-9, 12, and 13 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable by WO 98/12295 ("295"). Applicants respectfully traverse and obviate the rejection.

The '295 reference discloses a composition comprising a dye fixing agent and a specific amino-functional polymer. *See, e.g.,* '295, page 2, lines 5-7. The amino-functional polymers of this composition are water-soluble or dispersible polyamines. *See, e.g.,* '295, page 2, lines 5-7. The '295 reference does not recognize any problems associated with scum deposits or how to alleviate such problems.

As acknowledged by the Office Action, '295 does not disclose or suggest a composition containing a dye fixative agent, cationic surfactant, and other requisite components of the composition in the specific proportions as recited by the instant claims. The Office Action alleges that it would have been obvious to formulate a laundry detergent composition containing a dye fixative agent, cationic surfactant, and other requisite components of the composition in the specific proportions as recited by the instant claims. Applicants respectfully traverse.

Independent claim 1 recites a fabric composition that comprises a nitrogen containing dye fixing agent, and a scum reducing agent selected from the group consisting of N,N dimethyl-N-(2-hydroxyethyl)-N-dodecyl/tetradecyl ammonium bromide, myristoyl choline ester quaternary methylammonium halides, lauroyl choline ester methylammonium halides, cocoyl choline ester quaternary methylammonium halides, a polyoxyalkylene alkyl amine surface active agent, and mixtures thereof. There is, however, absolutely no suggestion in the cited reference that the claimed fabric care composition, comprising a nitrogen containing dye fixing agent, in combination with a scum reducing agent selected from the group consisting of N,N dimethyl-N-(2-hydroxyethyl)-N-dodecyl/tetradecyl ammonium bromide, myristoyl choline ester quaternary methylammonium halides, lauroyl choline ester methylammonium halides, cocoyl choline ester quaternary methylammonium halides, a polyoxyalkylene alkyl amine surface active agent, and mixtures thereof, would be successful as a superior fabric care composition in preventing scum formation on treated fabrics without being detrimental to the color of the treated fabrics.

The Examiner is improperly using hindsight to reject the claims as obvious. Hindsight cannot be used to reject the claims as obvious. *In re Sernaker*, 702 F.2d 989, 994 (Fed. Cir. 1983); *In re Rinehart*, 531 F.2d 1048 (CCPA 1976); *In re Imperato*, 486 F.2d 585 (CCPA 1973); *In re Adams*, 356 F.2d 998 (CCPA 1966). It is legally improper to select from the prior art the separate components of the inventor's combination, using the blueprint supplied by the inventor. *C.R. Bard Inc. v. M3 Systems, Inc.*, 157 F.3d 1340, 1352 (Fed. Cir. 1998) citing *Fromson v. Advance Offset Plate, Inc.*, 755 F.2d 1549, 1556 (Fed. Cir. 1985) (holding the prior art must suggest to one of ordinary skill in the art the desirability of the claimed combination).

Additionally, there is no disclosure or suggestion in '295 to include a scum reducing agent selected from the group consisting of N,N dimethyl-N-(2-hydroxyethyl)-N-dodecyl/tetradecyl ammonium bromide, myristoyl choline ester quaternary methylammonium halides, lauroyl choline ester methylammonium halides, cocoyl choline ester quaternary methylammonium halides, a polyoxyalkylene alkyl amine surface active agent, and mixtures thereof. For the above reasons, Applicants respectfully request that the rejections made be reconsidered and withdrawn.

Claim 8 is rejected under 35 U.S.C. §103(a) as being allegedly unpatentable by the '758 reference. Applicants respectfully traverse and obviate the rejection.

On page 6 of the Office Action, the Examiner alleges that it would be obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a composition containing a cellulase reactive dye fixing agent in addition to the other requisite components of the composition as recited by instant claim 8. Applicants respectfully submit that the '758 reference, as argued above, does not disclose each and every limitation of the invention. Specifically, the '758 reference does not disclose or suggest the scum reducing agents of the present invention. Thus, the prior art reference does not teach or suggest all the claim limitations. *See, e.g.*, MPEP 8<sup>th</sup> edition, §706.02(j). Therefore, Applicants respectfully request that all of the rejections made under 35 U.S.C. §103(a) be reconsidered and withdrawn.

With regard to all claims not specifically mentioned, these are believed to be allowable not only in view of their dependency on their respective base claims and any intervening claims, but also for the totality of features recited therein.

All claims are believed to be in condition for allowance. Should the Examiner disagree, Applicants respectfully invite the Examiner to contact the undersigned attorney for Applicants to arrange for a telephonic interview in an effort to expedite the prosecution of this matter.

**CONCLUSION**

In view of the foregoing amendments and accompanying remarks, reconsideration of the application and allowance of all claims are respectfully requested. No fee is believed to be due for the amendments herein. Should any fee be required, please charge such fee to Proctor & Gamble Deposit Account No. 16-2480.

Respectfully submitted,

By 

Mark A. Charles

Attorney for Applicant

Registration No. 51,547

Tel. No. (513) 627-4229

FAX RECEIVED  
JUN 05 2003  
GROUP 1700

Dated: June 4, 2003

Customer Number: 27752

**APPENDIX A**  
**MARKED UP VERSION OF THE AMENDED CLAIMS**

Application No: 09/744,267

Filed: March 4, 2003

1. (Amended) A fabric care composition comprising:
  - i)- a nitrogen containing dye fixing agent, and
  - ii)- a scum reducing agent selected from the group consisting of N,N dimethyl-N-(2-hydroxyethyl)-N-dodecyl/tetradecyl ammonium bromide, myristoyl choline ester quaternary methylammonium halides, lauroyl choline ester methylammonium halides, cocoyl choline ester quaternary methylammonium halides, a polyoxyalkylene alkyl amine surface active agent, and mixtures thereof.

**APPENDIX B**  
**CLEAN VERSION OF THE AMENDED CLAIMS**

Application No: 09/744,267

Filed: March 4, 2003

1. (Amended) A fabric care composition comprising:
  - i)- a nitrogen containing dye fixing agent, and
  - ii)- a scum reducing agent selected from the group consisting of N,N dimethyl-N-(2-hydroxyethyl)-N-dodecyl/tetradecyl ammonium bromide, myristoyl choline ester quaternary methylammonium halides, lauroyl choline ester methylammonium halides, cocoyl choline ester quaternary methylammonium halides, a polyoxyalkylene alkyl amine surface active agent, and mixtures thereof.